

REMARKS

In a final Office Action dated January 25, 2006, the Examiner rejects claims 1-44 (all pending claims). Applicants respectfully traverse the rejections. Claims 1-44 remain in the Application. In light of the following arguments, Applicants respectfully request that the Examiner remove the rejections and allow the application.

Applicants would like to thank the Examiner for re-issuing this Office Action to include correctly recited rejections referring to the proper reference. Applicants thank the Examiner for correcting the oversight to correct the prosecution record of this application.

The Examiner rejects claim 1 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication Number 2002/0133494 on behalf of Goedken (Goedken). To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988). Moreover, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). The **test for anticipation** is symmetrical to the test for infringement and has been stated as: “**That which would literally infringe [a claim] if later in time anticipates if earlier than the date of invention.**” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 U.S.P.Q. 1931, 1938 (Fed. Cir. 1983) (emphasis added). The Examiner has not provided a reference teaching each and every claimed element of claim 1.

Claim 1 recites “at least one First Tier identification server for receiving said representation and identifying said work from said representation; and at least one Second Tier ID server for identifying said work from said representation when said at least one First Tier Identification server does not identify said work.” Goedken does not teach servers that identify a work from a representation of data. Instead Goedken teaches a system that receives an information request message and determines a proper custodian of the information to reply to the request. See Abstract. The request message may comprise one or more questions about a topic of interest. See page 5, paragraph 50. The apparatus does not determine an identity of a work because the request message is known and only the topic pertaining to a question is identified and custodian of information for the topic is determined. See Abstract. See also Page 5, paragraph 53. Thus, Goedken does not teach a system that receives a representation of a work and identifies the work from the representation. Applicants have read the entirety of Goedken. For this reason, Applicants respectfully request the rejection of claim 1 be removed and claim 1 be allowed.

Claims 2-29 depend from claim 1. Thus, claims 2-29 are allowable for at least the same reasons as claim 1. Therefore, Applicants respectfully request that the rejections of claims 2-29 be removed and claims 2-29 be allowed.

Claim 30 recites a method for performing identifying work using the components recited in claim 1. Thus, claim 30 is allowable for at least the same reasons as claim 1. Therefore, Applicants respectfully request that the rejection of claim 30 be removed and claim 30 be allowed.

Claims 31-32 depend from claim 30. Thus, claims 31-32 are allowable for at least the same reasons as claim 30. Therefore, Applicants respectfully request that the rejections of claims 31-32 be removed and claims 31-32 be allowed.

Claim 33 recites the use of a tier system of servers that determine an identity of a work as recited in claim 1. Thus, claim 33 is allowable for at least the same reason as claim 1. Therefore, Applicants respectfully request that the rejection of claim 33 be removed and claim 33 be allowed.

Claims 34-38 depend from claim 33. Thus, claims 34-38 are allowable for at least the same reasons as claim 33. Therefore, Applicants respectfully request that the rejections of claims 34-38 be removed and claims 34-38 be allowed.

Claim 39 recites an apparatus that includes the means for performing the method recited in claim 30. Thus, claim 39 is allowable for at least the same reasons as claims 1 and 30. Therefore, Applicants respectfully request that the rejection of claim 39 be removed and claim 39 be allowed.

Claims 40-41 depend from claim 39. Thus, claims 40-41 are allowable for at least the same reasons as claim 39. Therefore, Applicants respectfully request that the rejections of claims 40-41 be removed and claims 40-41 be allowed.

Claim 42 recites an instruction executable by a machine that performs the method recited in claim 30. Thus, claim 42 is allowable for at least the same reasons as claims 1 and 30. Therefore, Applicants respectfully request that the rejection of claim 42 be removed and claim 42 be allowed.

Claims 43-44 depend from claim 42. Thus, claims 43-44 are allowable for at least the same reasons as claim 42. Therefore, Applicants respectfully request that the rejections of claims 43-44 be removed and claims 43-44 be allowed.

If the Examiner has any questions regarding this response or the Application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

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Respectfully submitted,
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